



NATIONAL TRANSPORTATION SAFETY BOARD
Office of Aviation Safety
Washington, D.C. 20594

February 20, 2003

HUMAN PERFORMANCE

SPECIALIST'S FACTUAL REPORT

A. ACCIDENT

Operator: Aviation Charter, Inc.
Location: Eveleth-Virginia Municipal Airport (EVM), Eveleth, Minnesota
Date: October 25, 2002
Time: 1022 central daylight time¹ (CDT)
Airplane: Beech King Air A100, N41BE
Accident Number: DCA03MA008

B. HUMAN PERFORMANCE SPECIALIST

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Office of Aviation Safety
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¹ All times are central daylight time based on a 24-hour clock, unless otherwise noted. Time of the accident is approximate.

C. SUMMARY

On October 25, 2002, about 1022, a Beech King Air A100, N41BE, operated by Aviation Charter, Inc., crashed while on the VOR approach to runway 27 at Eveleth-Virginia Municipal Airport (EVM), Eveleth, Minnesota. The accident occurred approximately two miles southeast of the runway 27 approach end. The airplane was destroyed by impact forces and post-crash fire, and the six passengers and two flight crewmembers were fatally injured. The airplane was being operated as a charter flight under Title 14 CFR Part 135 of the Federal Aviation Regulations (FARs). Instrument meteorological conditions (IMC) prevailed and an instrument flight rules (IFR) flight plan was filed.

D. DETAILS OF THE INVESTIGATION

The human performance investigator participated in all on-scene activities conducted by the Operational Factors/Human Performance Group.² In addition, the human performance investigator conducted the following activities:

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| November 2, 2002 | Interviewed the accident PIC's supervisor for his part time position with Fresenius Medical Care by telephone, regarding the Pilot in Command's (PIC's) work activity on October 24, 2002. |
| November 3, 2002 | Interviewed Aviation Charter customer service personnel by telephone, regarding communications with the accident PIC on the morning of the accident.

Re-interviewed Aviation Charter's Director of Charter Sales and Marketing by telephone, regarding communications with the PIC on the morning of the accident. |
| November 4, 2002 | Interviewed the fiancée of the accident SIC, by telephone, regarding the SIC's activities during the 72 hours before the accident. |
| November 25, 2002 | Interviewed the spouse of the accident PIC at the office of her attorney in Minneapolis, Minnesota, regarding the PIC's activities in the days before the accident, and the PIC's personal and professional background. Collected copies of the PIC's personal log books and other paperwork she brought from the PIC's residence. |
| November 26, 2002 | Collected copies of the accident SIC's personal |

² See the Operational Factors Group Chairman's Factual Report for a listing of group membership and a description of investigative activities conducted by the Operational Factors/Human Performance Group.

log book from the attorney representing his family, at the attorney's office in Minneapolis, Minnesota.

Interviewed staff at North Memorial Medical Center, Robbinsdale, Minnesota, regarding the PIC's activities the day before the accident.

December 13, 2002 Interviewed an Aviation Charter PIC by telephone, regarding the last VOR approach the accident SIC flew before the accident.

Interviewed the mother of the accident SIC, by telephone, regarding the SIC's activities during the 72 hours before the accident.

December 17, 2002 Interviewed Senator Wellstone's Chief of Staff, the State Director of the Minnesota U.S. Senate Offices, and Senator Wellstone's Campaign Director, by telephone, regarding any awareness they might have had of possible changes to the Senator's trip planning the morning of the accident.

December 19, 2002 Interviewed an Aviation Charter PIC, by telephone, regarding a telephone call the PIC placed to her residence before departure on the accident flight.

January 21, 2003 Re-interviewed an Aviation Charter SIC, at the company's Executive Aviation FBO in Eden Prairie, Minnesota, regarding the accident PIC's use of the autopilot systems installed on Aviation Charter's King Airs.

D. FACTUAL INFORMATION³

1.5. Personnel Information

1.5.1. The Captain

The captain, Richard E. Conry, age 55, was married (12 years), with no children. He lived in a suburb located ten miles west of downtown Minneapolis.

Conry was generally well-liked among Aviation Charter's copilots because he had a reputation for letting them fly the airplane. He also helped some of the copilots earn extra money by paying them to help with the renovation of his house. Conry was described as friendly, cheerful, pleasant, calm, and diligent in his use of checklists.

³ Section numbers follow ICAO factual report numbering convention and, therefore, may not be sequential.

Some copilots said Conry was not particularly assertive. However, other copilots said they thought Conry could be assertive, if necessary. One captain who had flown with Conry shortly after Conry was hired characterized him as “too timid to be captain.”

Some copilots said Conry rarely, if ever flew when they were paired with him, and this made them uncertain of his skill level. One Citation captain also said that Conry often turned down offers to fly when it was his turn, flying only 12 approaches out of 41 legs they flew together.⁴ A pilots expressed concerns about Conry’s flying skills, monitoring capabilities, and potential for distraction.⁵

According to his wife,⁶ Conry had experienced no significant changes in his personal life in the previous twelve months. The couple was “getting along fine,” and had no special plans for the upcoming weekend. Conry was usually happy, and he was in a good mood the week of the accident, having spent the previous weekend at an air show in California.

On his days off, Conry, a part-time nurse, would occasionally perform dialysis at local hospitals for a division of Fresenius Medical Care, located in Brooklyn Park, Minnesota. Otherwise, he would perform work around the couple’s house. The Conrys were in the process of performing a major renovation of their home. The renovation had resulted in some financial changes. Conry’s wife stated that Conry was not making the same money as a pilot as when he was a nurse and she had worked full-time in September 2002 to help out.

A search of records at the National Driver Registry found no history of driver’s license revocation or suspension for Conry.

1.5.1.1. Captain’s Flying Background

According to friends and family, when Conry was young, he flew with his father, a private pilot who died when Conry was 13. At age 31, Conry began training to obtain a private pilot’s license. He took instruction at a flight school located at Flying Cloud Municipal Airport (FCM), in Eden Prairie, Minnesota, passing the practical test on April 6, 1979. Conry flew regularly from 1979 to 1982, logging about 100 hours per year.

Conry added a seaplane rating to his certificate in 1980, and an instrument rating in 1982. In 1983, Conry obtained a multi-engine rating, and logged about 300 hours, mostly in Cessna 210 and Cessna 310 airplanes. Conry obtained his commercial pilot’s certificate in 1984, logging about 100 hours per year in 1984 and 1985.

⁴ See interview summary for Mark Andersen, contained in Attachment 1 of the Operational Factors Group Chairman’s Factual Report.

⁵ See attachments to the Operational Factors Group Chairman’s Factual Report for relevant interview summaries.

⁶ See the interview summary for Johanne Conry, contained in Attachment 1 of this report.

Conry added a multi-engine land rating to his commercial pilot's certificate in 1986. Conry's wife provided investigators with two different logbooks covering the time period from mid-1986 to mid-1990. These two logbook contained conflicting accounts of Conry's flying activity from mid-1986 to mid-1990.⁷

Conry began training for his Airline Transport Pilot (ATP) Certificate in February, 1989. He failed the practical test for the certificate on his first attempt in April 1989, received additional training, and passed the test on August 4, 1989.

Conry's wife stated that he had previously owned several aircraft, including a Cessna 150, a Piper Apache, a Cessna 210, a Starduster, and a seaplane. She also stated that he had belonged to a flying club at FCM at one time.

1.5.1.2. Captain's Professional Background

Conry held a B.S. in economics, with a minor in business finance, awarded to him in 1970 by Mankato State University. After graduating, Conry worked as a property manager for Carlson Companies, in downtown Minneapolis, from 1970 to 1973. Then, he worked as a project manager for DiCon Construction Company, a Conry family-owned business, from 1973 to 1976. In May, 1976, Conry became President of American Engineering Services. American Engineering Services was also owned by the Conry family. It supplied subcontract labor services to the construction industry. According to papers from his residence, American Engineering Services was sold in 1988, but Conry stayed on as a company manager until September 1, 1989.⁸

Conry sought employment as an airline pilot after obtaining his ATP certificate on August 4, 1989. A resume and cover letter written by Conry, and dated August 8, 1989 were found in the papers provided by Mrs. Conry.⁹ The cover letter was addressed to Phoenix Airline Services. Another Conry resume contained a handwritten note reading, "Submitted to Express 1 on 9/13/89."¹⁰ A completed Simmons Airlines¹¹ employment application, dated October 19, 1989, was also found.¹² In addition, Conry's FAA medical records contained information indicating that he completed a pre-employment FAA medical examination for Continental Airlines on October 26, 1989.¹³ A subsequent letter from Simmons Airlines, dated November 1, 1989, congratulated Conry for being selected for training as a Simmons Airlines first officer (F/O).¹⁴

⁷ For a detailed discussion of Conry's flight experience records, see the Operational Factors Group Chairman's Factual Report.

⁸ See Attachment 2.

⁹ See Attachment 2.

¹⁰ See Attachment 3.

¹¹ Simmons Airlines operated as an "American Eagle" commuter airline.

¹² See Attachment 4.

¹³ See the letter written by Dr. Robert R. Greenheck, Aviation Medical Examiner, contained in Attachment 13.

¹⁴ See Attachment 5.

Records from Conry's home indicated that he reported for Simmons Airlines ground training for in Marquette, Michigan on November 27, 1989. The Simmons training program consisted of 17 days of ground instruction, 3 days of instruction in a Frasca 121 flight training device, more than 30 hours of flight training, and about 20 hours of initial operating experience (IOE).¹⁵

Conry's personal log book from his time with Simmons Airlines documented a satisfactory flight training proficiency check with Simmons on January 19, 1990.¹⁶ Additional paperwork from Conry's residence documented 9 hours of "pre-IOE" flight experience gained on January 22 and January 23, 1990.¹⁷

Conry's personal logbook documented Conry's participation in four revenue service flights on January 29 and January 30, 1990. Investigators were unable to document any additional flying experience Conry may have gained with Simmons Airlines. Conry resigned his position at Simmons Airlines in a letter dated April 20, 1990, effective April 27, 1990.¹⁸

On January 29, 1991, Conry submitted an application for a first class medical certificate to the FAA. He wrote "none" under occupation, and "none" under employer. On August 11, 1992, Conry submitted an application for a second class medical certificate. On the application form he listed "student" as his occupation, and made no entry under employer. On subsequent medical application forms submitted in 1997, 1998, and 2000, Conry listed "registered nurse" as his occupation.

On March 20, 2001, Conry submitted an application for employment to Aviation Charter. On the application, he reported that he had worked as a registered nurse for four different employers from March 1992 to March 11, 2001. His most recent employer was Fresenius Medical Care. Conry wrote "to become full time pilot" as his reason for leaving.¹⁹

Conry stopped by Aviation Charter's offices in Eden Prairie, Minnesota some time in December 2000, and inquired about the possibility of employment. The company's agent for service recalled Conry stating that he had had eye problems in the past, and had been legally blind at one time. This, Conry stated, had put an end to his flying career. However, Conry had had surgery correcting his eye problems and his vision was restored. The agent's recollection was that Conry had left American Eagle about five years prior to his first visit to Aviation Charter, and had been out of flying for that five years. The agent for service said he told Conry he would need to obtain a first class medical certificate before he would be considered for employment.²⁰

¹⁵ See Attachment 6 of this report.

¹⁶ See Attachment 7.

¹⁷ See Attachment 8.

¹⁸ See Attachment 9.

¹⁹ See Attachment 10.

²⁰ See the interview summaries for Dave Willman, contained in Attachment 1 of the Operational Factors Group Chairman's Factual Report.

FAA records show that Conry obtained a new first class medical certificate on December 27, 2000. Conry's most recent logbook indicated that he performed 6.7 hours of flight training in Cessna 152 and 172 aircraft, and completed 1.7 hours of instruction in an AST-300 flight training device between December 2000 and March 2001. On March 20, 2001, Conry returned to Aviation Charter and submitted an employment application. On his application, Conry claimed 514 hours of turboprop flight experience as an SIC.²¹

Aviation Charter wrote American Eagle seeking records of Conry's past employment. American Eagle's response was that they had no record of Conry's employment, and the company explained that it was not required to maintain pilot employment records for more than five years.²² Aviation Charter's agent for service told investigators that he remembered speaking with someone who had previously worked with Conry at American Eagle, but he could not remember who it was.

The agent for service said factors considered in hiring Conry as an Aviation Charter captain included his total flight experience, turbine experience, check ride performance, and friendly, outgoing personality. He could not remember who had conducted Conry's check ride.²³

Conry's logbook documented his first revenue flight for Aviation Charter, in a Beech 90, on May 17, 2001. After February 18, 2002, Conry served as a copilot on Aviation Charter's Cessna Citation airplanes, while continuing to serve as a captain on the company's King Airs. In the 17-month period he flew for Aviation Charter (May 17, 2001 and October 25, 2002), Conry recorded 738 hours of multi-engine flight time in his logbook, and 467 hours as PIC.

Conry's most recent recurrent ground training was in April 2002. His most recent simulator training consisted of six hours in a Class "C" flight training device, which took place in Dallas, Texas, August 19 through August 21, 2002.²⁴ Since that training, Conry had completed 32 trips in a variety of aircraft, 21 trips in King Airs, and 11 in Cessna Citations. Six of the 21 King Air trips were conducted in the A100, including one the day before the accident, in the accident aircraft, N41BE.

Conry's wife stated that she had paid for Conry's type ratings on the King Air and Cessna Citation which had cost \$2,500 and \$5,000 respectively. Her understanding was that Aviation Charter would reimburse Conry for the cost of the type ratings if he remained with the company for at least 10 months after the completion of training. Eventually, Conry wanted to get a job with a fractional jet ownership company because he was not flying as often as he wanted at Aviation Charter.

²¹ See Attachment 11.

²² See Attachment 21 of the Operational Factors Group Chairman's Factual Report.

²³ See interview summaries for Dave Willman, contained Attachment 1 of the Operational Factors Group Chairman's Factual Report.

²⁴ Additional details on Conry's flight training activities with Aviation Charter can be found in the Operational Factors Group Chairman's Factual Report.

Conry's logbook indicated that he had flown Senator Wellstone on at least 12 occasions, the earliest in September, 2001. According to Mrs. Conry, he got along well with the Senator. The Senator or his staff would call Conry at home before trips. The Senator had a fear of flying, especially in turbulent conditions. The Senator and his staff appreciated the fact that Conry respected his fear of flying, and that Conry would abide by their wishes with respect to canceling flights. According to the Senator's campaign scheduler, Conry and another pilot were the Senator's favorite Aviation Charter captains. The Senator trusted them, and his staff requested Conry or the other captain when scheduling the Senator's trips.²⁵

1.5.1.3. Captain's Medical Background

Conry's wife said he was generally "healthy," and had experienced no significant changes in his health in the past twelve months. He displayed no signs of illness the week of the accident. Conry exercised regularly, using equipment at his home. He did not take prescription medication, drink alcohol, or use tobacco products. His hearing was good.

Conry's most recent FAA medical certificate was first class, dated December 17, 2001. The certificate contained a limitation requiring the use of corrective lenses for near and distant vision.

According to a former family friend, Conry had lasik surgery to improve his visual acuity in both eyes – improving distance vision in one eye, and reading vision in the other. The friend said that the surgery had appeared to work for Conry and he no longer wore corrective lenses (contacts and occasionally glasses at home). He thought Conry had had his surgery in late 1998 or early 1999.²⁶ When asked if Conry had had laser surgery to reshape his cornea, Mrs. Conry said she did not know. She said he had had vision difficulties in the past, but had undergone lens implant surgery before he started working for Aviation Charter. The surgery worked well, making his vision "better than normal." She said Conry did not need to wear corrective lenses afterward.

Conry had been issued two waivers for defective distant vision. The first waiver, a Statement of Demonstrated Ability (SODA), was issued on March 11, 1983, for "Defective distant vision, 20/400 corrected to 20/20 bilateral" (Waiver No. 40D38325). The second waiver, issued on May 4, 1988 for "Defective distant vision poorer than 20/200 corrected to 20/20, left eye."²⁷ Conry's FAA medical records showed a history of significant changes in his visual acuity. Investigators compiled uncorrected distant visual acuity measurements for each eye from medical certificate application forms and special vision examination forms contained in Conry's FAA medical file. These measurements are listed in Table 1.

²⁵ See interview summary for Pat Johnson, contained in Attachment 1.

²⁶ See the interview summary for Timothy Cooney, in Attachment 1.

²⁷ See Attachment 12.

An aviation medical examiner who examined Conry on October 23, 1989, wrote a letter to the manager of the FAA's Aeromedical Certification Division expressing concern that Conry had demonstrated a dramatic, unexplained improvement in his visual acuity and had falsified his medical form by denying having a waiver for defective distant vision, despite acknowledging the waiver during earlier FAA medical examinations with other doctors.²⁸ On January 9, 1990, the manager of the FAA's Aeromedical Certification Division wrote to Conry, asking him to submit to a comprehensive eye exam.²⁹ Conry complied (showing another change in visual acuity).³⁰ Conry retained his first class medical certificate, renewing it on June 5, 1990.³¹

Conry did not acknowledge his 1990 felony convictions³² on a medical application form he submitted on August 11, 1992.³³ Conry checked "No" under Item W, "History of other nontraffic convictions (misdemeanors or felonies)," on the form, despite a 1990 conviction on 14 counts of wire and mail fraud. Conry acknowledged the conviction on his next medical application form (second class), dated July 17, 1997. He also reported having lens implant surgery in 1996. In a remarks section of the 1997 form, Conry's AME wrote "W. Deferred for review of legal problem. No other concerns."³⁴

On August 6, 1997, Conry was ordered to submit to a comprehensive eye exam, which he did.³⁵ The comprehensive eye exam results Conry submitted revealed that his uncorrected acuity in his left eye was defective for distant vision, but normal for near vision. Inversely, his uncorrected acuity in his right eye was defective for near vision, but normal for distant vision. The exam results also showed that Conry's vision could be corrected to normal for near and distant vision in both eyes.³⁶

On September 30, 1997, the manager of the FAA's Aeromedical Certification Division wrote to Conry, stating that the FAA's review of Conry's medical records indicated he was eligible for a second-class medical certificate.³⁷

Conry underwent a standard aviation medical exam on May 7, 1998, and was awarded a first class medical certificate.³⁸

²⁸ See Attachment 13.

²⁹ See Attachment 14.

³⁰ See Attachment 15.

³¹ See Attachment 16.

³² See section 1.5.1.4. Captain's Criminal Background for information on his conviction history.

³³ See Attachment 17.

³⁴ See Attachment 18.

³⁵ See Attachments 19 and 20.

³⁶ During the exam, Conry reported that he had cataract extraction with intra-ocular lens implant surgery on his right eye December 9, 1996, and that he had the same surgery performed on his left eye January 6, 1997.

³⁷ See Attachment 21.

³⁸ See Attachment 22.

Table 1.

Chronological listing of uncorrected distant vision measurements contained in the FAA medical records of Richard E. Conry.

Document Date	Source of Acuity Measurement	Class of Medical Sought	Uncorrected Distant Visual Acuity Listed	
			Left Eye	Right Eye
12/29/1978	AME Exam	Not Listed	20/200	20/200
12/31/1980	AME Exam	Not Listed	20/200	20/200
12/29/1982	AME Exam	2	20/400	20/400
1/18/1983	U.S. DOT-FAA Report of Eye Evaluation	2	20/400	20/400
3/11/1983	Statement of Demonstrated Ability	2	20/400	20/400
1/13/1984	AME Exam	2	20/400	20/400
1/3/1985	AME Exam	2	20/200	20/200
1/17/1986	AME Exam	2	20/400	20/400
1/18/1988	AME Exam	1	20/200	20/200
7/22/1988	AME Exam	1	20/200	20/200
1/27/1989	AME Exam	1	20/200	20/100
7/21/1989	AME Exam	1	20/200	20/100
10/23/1989	AME Exam	1	20/90	20/90
1/24/1990	U.S. DOT-FAA Report of Eye Evaluation	1	20/90	20/90
6/5/1990	AME Exam	1	20/200	20/200
1/29/1991	AME Exam	1	20/100	20/100
8/11/1992	AME Exam	2	20/200	20/200
7/17/1997	AME Exam	2	20/100	20/25
9/29/1997	U.S. DOT-FAA Report of Eye Evaluation	2	20/200	20/20
5/7/1998	AME Exam	1	20/100	20/20
12/27/2000	AME Exam	1	20/100	20/100
12/17/2001	AME Exam	1	20/50	20/30

1.5.1.4. Captain's Criminal Background

On January 13, 1985, Conry was named as a defendant in a civil complaint filed by two construction companies. The complaint claimed that Conry and two of his companies DiCon Financial Co. and Lake Minnetonka Homes, had failed to pay housing construction subcontractors for services they had provided.

On November 2, 1987, the civil case was brought before a Chief U.S. District Judge, in St. Paul, Minnesota, for a jury trial which lasted until December 15, 1987.³⁹ The jury concluded that Conry, DiCon Financial, and Lake Minnetonka Homes were liable to the plaintiffs, and ordered Conry and his companies to pay the plaintiffs \$151,371.99 for costs and attorney's fees.

On November 8, 1989, Conry was indicted by a Federal Grand Jury on fourteen counts of mail and wire fraud, in violation of 18 USC 1341.⁴⁰ On November 9, 1989, Conry appeared in St. Paul Minnesota for a bond hearing, and was released on \$10,000 bond.

On November 22, 1989, the judge handling Conry's criminal case issued an order that Conry should be allowed to travel to and from Marquette, Michigan from November 25, 1989 to January 10, 1990.

Counterclaims and appeals filed by the defendants in the civil case against Conry and his companies were heard until December 29, 1989, at which time Conry and his companies were ordered to pay additional costs, Conry's counterclaims were denied, and the civil case file was closed.

On January 8, 1990, the judge in Conry's criminal trial ordered Conry to return for court on or before January 29, 1990.

On February 2, 1990, Conry's criminal jury trial began before a U.S. District Judge in Minneapolis. It continued until February 20, 1990, when the jury found Conry guilty of all fourteen counts of mail and wire fraud.

On April 27, 1990, Conry was sentenced to two years in prison for counts 1 through 8. Conry was sentenced to an additional two years for counts 9 through 14, however, the latter prison sentence was suspended, and Conry was to be placed on five years probation after his release from the initial prison term instead. Conry was also ordered to make restitution payments through the probation office after his release from prison.

On June 8, 1990, Conry surrendered to the U.S. Marshals Service to begin serving his prison sentence. He was incarcerated at Yankton Federal Prison Camp,

³⁹ See Attachment 23.

⁴⁰ See Attachment 24.

Yankton, South Dakota. After serving one year and five months in prison, Conry was released on November 8, 1991.

Conry remained on probation for five years, reporting monthly to the Minneapolis probation office, and providing small monthly restitution checks. He was released from probation on November 7, 1996.⁴¹

1.5.1.5 Captain's 72-Hour History

On the morning of October 22, 2002, Conry arrived at the Million Air FBO at Flying Cloud Municipal Airport (FCM), Eden Prairie, Minnesota, for a positioning flight to St. Paul Downtown Airport (STP), St. Paul, Minnesota, in a Beechcraft 90 King Air. This was his first flight in a King Air since October 2, 2002. Conry was paired with a 690-hour copilot.⁴²

The two pilots had flown together on multiple occasions. The copilot had also been performing remodeling work at Conry's residence. According to the copilot, Conry appeared normal that morning. He did not look tired before the flight.

The copilot flew the leg to STP, which departed at 0742 and arrived 0900. According to the copilot, the crew performed all required checklists during the flight.

At STP, the crew waited about 40 minutes at the Million Air FBO for Senator Wellstone and his staff to arrive. While they were waiting, both pilots checked the weather at their destination, Rochester International Airport (RST). Conry visited with Aviation Charter employees at the Million Air reception desk.

After the Senator arrived with several other passengers, both pilots briefed Wellstone on the weather conditions. The forecast was favorable and the Senator seemed pleased.

According to the copilot, Conry performed normal startup procedures, obtained taxi and IFR clearance, ran the After Start checklist, taxied the airplane, and ran the Before Takeoff checklist. Then he told the copilot to take the flight controls. The flight departed at 0900.

During takeoff, the copilot said he expected Conry to activate the yaw damper switch on the center control pedestal. Instead of activating the yaw damper switch, however, Conry activated the autopilot switch, which was located adjacent to the yaw damper switch. The altitude portion of the autopilot system was already armed and the flight director bars on the attitude indicator were indicating a pitch-down attitude. When the autopilot system was activated, the aircraft started to pitch down as it was climbing

⁴¹ Personal communication with Jay Meier, United States District Court, District of Minnesota, Probation Office, February 7, 2003.

⁴² See interview summary for Justin Lowe, contained in Attachment 1 of the Operational Factors Group Chairman's Factual Report.

through an altitude of about 300 feet above ground level. The copilot remembered Conry saying, "What's going on?"

The copilot immediately applied back pressure on the yoke to stop the descent, then disconnected the autopilot. The aircraft experienced an erratic pitch up before returning to a normal climb. After the airplane was stabilized, the copilot explained to Conry that he had engaged the autopilot instead of the yaw damper. Conry replied, "Oh, that could have been pretty bad."

The remainder of the flight was uneventful. The cloud ceiling at RST was broken at 1,800 feet, with 10 miles visibility. The copilot flew the approach. After landing, the copilot taxied the airplane to its parking area, shut down the engines, and opened the door for the passengers. The flight arrived at 0942. As the passengers deplaned, the copilot recalled the Senator jokingly telling Conry to "get some sleep."

The crew waited for several hours at RST for their passengers to return to the airport for a return flight to STP. The copilot stated that Conry took a one-hour nap at the FBO. After that, Conry watched television and the crew went out for lunch. Conry told the copilot he was due for his six-month proficiency check and wanted to get some studying done. After the two returned from lunch, the copilot went out to the airplane to relax and study. When he came back inside the FBO later, Conry was sleeping in a chair with his briefcase on the floor next to him. The copilot said it appeared as if Conry was preparing to study also, but had fallen asleep in the chair instead.

The crew's passengers arrived about an hour later than scheduled. Conry taxied to the runway. After all required checklists were performed, Conry gave the controls to the copilot and took over the radios. The flight departed RST at 1736.

During the flight, the copilot remembered Conry repeatedly saying "Citation 6356K" as their radio call sign, rather than "King Air 6356K." Eventually, a controller said, "You wouldn't happen to be in a King Air today would you?" Conry acknowledged the errors and apologized.

Conry's copilot made a visual approach to STP. The approach and landing were uneventful. The flight arrived STP at 1812. During his departure from the aircraft, the Senator said thanks, and asked if they would be flying him on his next trip. The copilot told the Senator he did not know.

The crew departed STP for a repositioning flight at 1818, and arrived FCM at 1830. The copilot flew the leg, which was uneventful.

After arriving at FCM, Conry and the copilot met at a desk where they filled out duty times for the trip. Conry said he had a check ride the next day, and was worried about it. He seemed primarily concerned about the oral portion of the check ride. The copilot, concerned about Conry's cockpit performance, asked Conry why he remained at Aviation Charter. Conry said he was "doing the same thing the copilot was doing

there.” The copilot told Conry he thought Conry should think about retiring. The two men discussed meeting at Conry’s house that weekend, then parted ways.

Conry engaged in routine activities at home during the evening. His spouse could not recall when Conry went to sleep Tuesday evening, October 22, 2002, or when he woke Wednesday morning, October 23, 2002.

On Wednesday, October 23, 2002, about 0930, Conry met Aviation Charter’s chief pilot, at the company’s Executive Aviation FBO at FCM for his six-month proficiency check. The chief pilot said Conry was in a good mood when he arrived.⁴³ They began talking about training immediately. The chief pilot had no complaints about Conry’s performance during the oral exam, which lasted about an hour. After the oral exam, at about 1200, they signed out a Beech 90, N6536K, for the flight portion of Conry’s proficiency check.

The flight was conducted under visual flight rules. Maneuvers performed included stalls, steep turns, recovery from unusual attitudes, ILS approaches, missed approach, go around, VOR approach, and a no flaps landing. A vision obscuring device was used to test Conry’s ability to conduct the IFR approaches. The go around was performed using the autopilot. During the VOR approach, the chief pilot simulated an engine failure and had Conry perform a single engine ILS approach. The flight portion of Conry’s proficiency check ended at 1342.

The chief pilot remembered Conry’s check ride going smoothly. Conry performed within tolerances on everything. His ILS and VOR approaches were precise. The only thing that stood out was Conry’s performance during the simulated engine failure. Conry’s altitude, heading, and speeds were stable, and he identified the failed engine properly, but the chief pilot advised Conry to pick up the pace during the procedure. He advised Conry to feather the engine “a couple of seconds faster for comfort.” Conry and the chief pilot parted about 1440.

Conry returned home after his proficiency check and ate dinner. His wife said he was tired and may have taken some Tylenol. Conry engaged in routine activities around the house and went to bed early, between 1900 and 2000. During the night, Conry was contacted by Aviation Charter, and asked to fly a “pop-up” charter trip for the Red Cross in the King Air A100, N41BE. Conry’s wife could not recall when he was notified of the trip or when he left the house. Conry’s copilot for the trip was notified at 0147, on October 24, 2002.⁴⁴ The flight was scheduled to depart about 0340.

Conry’s 1200-hour copilot arrived at the Million Air facility at STP between 0230 and 0250. Conry, who was already there, was using a computer to look at the weather. According to the copilot, Conry seemed like “the same old Richard.” They greeted each

⁴³ See the interview summary for Alan Hoffert, in Attachment 1 of the Operational Factors Group Chairman’s Report.

⁴⁴ See interview summary for Bruce White, contained in Attachment 1 of the Operational Factors Group Chairman’s Factual Report.

other and had casual conversation. Conry mentioned that he had completed a check ride with the chief pilot the day before, and that it had gone well.

The weather did not look like it was going to be a problem for the flight. Cloud ceilings were 2,200 overcast between STP and their destination, Bismarck Municipal Airport (BIS), Bismarck, North Dakota.

Conry filled out a trip form for the airplane, recording the date for the aircraft's next required inspection. Investigators noted that Conry made a minor error on the form, writing that the first flight of the evening was from BIS to STP and the return flight was from STP to BIS.⁴⁵

According to the copilot, he and Conry did not interact much while waiting for the Red Cross, but everything seemed fine with Conry. Conry appeared to be in a good mood.

When the Red Cross team arrived, the team coordinator, greeted Conry by name. The team coordinator and another team member went inside and spent a few minutes with Conry in the Million Air lobby. The team coordinator stated that Conry commented that he was not feeling well that morning. Conry did not display any obvious symptoms of a cold or flu, but he thought Conry looking physically tired. According to the coordinator, Conry said he hadn't been flying very much, because he had low company seniority. Conry mentioned that he was a nurse, and expressed an interest in the tissue recovery work the team performed. Conry asked if he could watch them work. The team coordinator telephoned his supervisor at the Red Cross to ask for approval, and was told that Conry would need to fill out an application for employment before he could observe a tissue recovery.⁴⁶

According to the copilot, Conry had forgotten to file their flight as a "Life Guard" flight, so the copilot asked Flight Service to add that detail to their flight plan. After the copilot obtained their instrument clearance, Conry said, "okay, your airplane," and took over the radios. Conry asked the copilot if he would like to do an "airline response takeoff," indicating the copilot would ask for takeoff power and Conry would set the power for him. The copilot agreed, and they used that procedure.

According to the copilot, Conry was very talkative during the flight, and spent some time showing the copilot how to operate his new hand-held GPS unit.

The flight was routine. When they landed at BIS, Conry remarked that it was still early. The copilot specifically remembered looking at a clock in the cockpit which read 0548.

The crew went inside the FBO to wait for the Red Cross team to complete its

⁴⁵ See Attachment 25.

⁴⁶ See interview summary for Thomas Burns, contained in Attachment 1 of the Operational Factors Group Chairman's Factual Report.

work. Conry ordered catering and told FBO personnel how much fuel they needed. Then, he went upstairs to a sleep room while the copilot watched television in a lounge area. The copilot received a call from the Red Cross team about an hour later, giving the crew a one-hour notice of their early return. It was about 0630. Conry was sleeping.

The copilot woke Conry about twenty minutes before the team returned. Conry was startled, and said, "Wow, that was quick." Conry took a couple of minutes to get ready, but seemed alert after that.

After the crew received departure clearance, Conry asked the copilot, "Would you like this leg back, are you tired?" The copilot said he was not tired, and flew the leg. Conry and the copilot performed the same kind of takeoff they had performed on the previous flight. The copilot flew the rest of the leg back to STP, and the flight arrived at 0906.

Before parting, Conry and the copilot made plans to meet at Conry's residence on Saturday, October 26, 2002, to perform some practice approaches using Conry's PC-based flight simulator.

Conry's wife said her husband returned home early in the morning on October 24, 2002. After he returned, Conry's nursing supervisor called and asked if he wanted to do some dialysis work. His wife remembered Conry telling his nursing supervisor he could not work right away, because he had to sleep. He told his supervisor he would call her when he awoke. Conry's wife stated that he went to sleep about 0730 and awoke just before he left for the hospital at 1500.

Conry's nursing supervisor remembered receiving a call from Conry at 1000 on October 24, 2002, and asking him to work. Conry said he had just gotten back from a flight, and was going to go home and sleep but he could work after 1500. Conry's supervisor recalled asking if that would give him time to get adequate rest. Conry replied, "Yeah, I'll sleep and come in at three." His supervisor said she told Conry to call her back if he was not able to get enough sleep.⁴⁷

The charge nurse for the Trauma Neuro Intensive Care Unit at North Memorial Medical Center recalled Conry's arrival. When the charge nurse first saw Conry, he was near the entrance to the unit, examining a chart for the patient he was to dialyze. The charge nurse had a discussion with Conry about flying. Conry did not appear tired and seemed "no different than usual." There was about an hour delay, and Conry did not run the patient until about 1600. During the dialysis treatment, Conry stayed in the patient's room. The charge nurse saw him sitting in a chair in the room later that evening, when he made his rounds. The nurse did not see Conry after that.⁴⁸

A staff nurse at the Trauma Neuro Intensive Care Unit also recalled seeing Conry

⁴⁷ See interview summary for Grace Glander, contained in Attachment 1.

⁴⁸ See interview summary for John Berg, contained in Attachment 1.

arrive that afternoon. The staff nurse interacted with Conry more than usual that evening, because she was orienting a new nurse. She first spoke with Conry between 1830 and 1900. They had routine conversation. Conry seemed normal, alert, and friendly. In the middle of their conversation, between 1600 and 1830, the staff nurse said Conry received a call notifying him about flying the Senator in the morning. Conry told her the Senator was a great guy who was nice to everybody. Conry said he really enjoyed flying the Senator. Conry said the Senator requested him sometimes because they had a good rapport. The staff nurse resumed other duties shortly after Conry received the phone call notifying him about the flight with the Senator. However, she thought she heard Conry spoke with someone at his dialysis company afterward, tell them he had to fly in the morning, and decline another dialysis run.⁴⁹

A customer service representative at Aviation Charter recalled receiving the trip sheet for October 25, 2002 between 1600-1700 on October 24, 2002.⁵⁰ Conry's cell phone records showed a brief incoming call from Executive Aviation at 1806.⁵¹ The service representative left a message on Conry's cell phone. She said Conry called her back between 1930 and 2000 to accept the flight. She gave Conry the flight information, including the number of passengers. Conry thanked her, and said he would be at the airport an hour early. The customer service representative said Conry sounded "pretty normal" on the phone. He did not sound fatigued.

Conry was still at the hospital when the staff nurse left at 1930. After the accident, the staff nurse examined the dialysis record for the patient Conry treated on October 24, 2002. The patient's first vital sign was recorded by Conry at 1615, the last one at 2015. Conry's supervisor at Fresenius Medical Care stated that 30 to 45 minutes of additional cleanup time would be required after completing a dialysis treatment, so she believed Conry would have left the hospital about 2100.

Later that evening, the Senator's campaign scheduler called Aviation Charter and asked the customer service representative on duty to ensure that Conry would call the campaign scheduler in the morning and discuss the weather conditions. As a result, the customer service representative said she called Conry again, between 2130 and 2140, to remind him to provide the weather check in the morning. Conry said he usually did that anyway, and thanked her for calling.

Mrs. Conry said her husband returned from the hospital between 2130 and 2140, and went to sleep right away. The time of Conry's waking on the morning of October 25, 2002 is unknown. Conry's wife said he slept at least eight hours the night before the accident.

1.5.1.6 Captain's Preflight Activities

FAA records indicate that Conry placed a call to Flight Service to obtain a

⁴⁹ See interview summary for Jacquelyn Feyereisen, contained in Attachment 1.

⁵⁰ See interview summary for Rachel Davies, contained in Attachment 1.

⁵¹ See Attachment 26.

weather briefing at 0715. After getting information from the briefer, Conry stated, “You know what, I don’t think I’m going to take this flight.” He thanked the weather briefer, and ended the conversation.⁵²

At 0720, Conry placed a call to Wellstone’s campaign scheduler. Conry said he was concerned that there might be a problem with icing that morning. However, he explained that there were variations in temperature and he would not know the conditions for certain until the airplane was closer to Eveleth. The scheduler asked what Conry would do if icing became a problem. Conry said that was where a pilot’s experience was important. The airplane they would be flying was equipped with deicing equipment. If the airplane couldn’t handle the ice, he would turn back into warmer air and the ice would melt. The scheduler asked Conry if he would land in Duluth if he could not land in Eveleth. Conry said Duluth might be an alternate destination. Conry reassured the scheduler that he was an experienced and conservative pilot. He added that there was a front moving in from the south, and he was also concerned about whether they would be able to fly back to STP from Duluth later that night. The scheduler told Conry they could drive the Senator back to St. Paul from Duluth later in the day if they could not fly. The scheduler said she needed to speak with the Senator’s campaign manager about whether to attempt the trip to Eveleth.

At 0729, while the scheduler contacted the Senator’s campaign manager, Conry called Aviation Charter in Eden Prairie. The receptionist who took the call said Conry asked her to tell the scheduling office that the Senator’s flight would be delayed departing STP until 1100 because of weather. Conry told her not to let anyone else book the airplane. Conry called the Million Air FBO at STP at 0731. The FBO manager remembered Conry calling to ask her to ensure that no one else took the aircraft the Senator had reserved. Conry said the originally scheduled departure for EVM had been pushed back, and he intended to fly the Senator to Duluth at 13:00, instead of departing for Eveleth at 0920.

At 0734, Conry called the originally scheduled copilot, to tell him the flight to Eveleth was going to be canceled.⁵³ The originally scheduled copilot told Conry he had never been notified of the flight.⁵⁴

At 0735, Conry placed a 1 minute, 37 second call to Aviation Charter’s offices in Eden Prairie. Investigators were unable to document the nature of this call.

The Senator’s campaign scheduler called Conry back at 0759, using her cell phone. Conry said he had just gotten out of the shower. The scheduler asked what the chances were of landing at Eveleth. Conry said about “50-50.” Conry said he had just checked the weather and it had improved. He said there was no rain up north, but there was light snow, and that would be better to fly in than rain. He also said the ceiling had

⁵² For a transcript of this conversation, see the Air Traffic Control Group Chairman’s Factual Report.

⁵³ Guess was assigned as the flight’s copilot when Aviation Charter was unable to reach the originally scheduled copilot the night before.

⁵⁴ Personal communication with Eduardo Delgado, December 9, 2002.

improved from 700 to 800 feet. He said 700 was the minimum and you would not want to attempt to land if it were less than that. The scheduler told Conry that was good. She told investigators Richard seemed upbeat at that point. The scheduler recalled saying, "Okay, well, let's try it," and Conry agreed.

At 0803, Conry placed a call to Michael Guess's cell phone. Guess's fiancée, who was with Guess at the time, remembered the call and recalled Guess saying Conry had told him the trip was canceled.

At 0817, Conry called Flight Service again, and asked for another report on the weather at Eveleth, and then filed a flight plan for N41BE, with a 0920 departure time from STP.⁵⁵

At 0821, Conry placed a call to the Senator's campaign scheduler's cell phone, using his own cell phone. The call lasted 2 minutes, 32 seconds. Investigators were unable to determine the nature of this call.

At 0835, Conry placed a 5 minute, 22 second call to Aviation Charter's offices in Eden Prairie, using his cell phone. This was followed immediately by a 2 minute, 58 second call to the same number. Aviation Charter's Director of Charter, Sales, and Marketing recalled receiving a phone call from Conry about 0840.⁵⁶ She was able to verify the time because she had written it on a piece of paper in her office. During their conversation Conry said he was in his car, and had almost arrived at the airport.

He said he had done a weather check with the Senator's campaign people and the campaign staff wanted to depart on the trip as scheduled. However, one of the senate offices was telling him something different. Conry told the Director he did not want to make a decision, because whichever decision he made would be the wrong one.

The Director of Charter, Sales, and Marketing told Conry he should speak with the chief pilot about the matter. Conry said he had tried to contact the chief pilot, but could not reach him. The Director then suggested Conry speak with the Director of Operations. She transferred Conry to the front desk.⁵⁷ That was the last time she spoke with him.

Aviation Charter's policy was for pilots to arrive an hour before a flight. Conry usually arrived an hour and thirty minutes before a flight. The Director said Conry would not have been in a hurry, however, because she understood that the campaign staff had pushed back the scheduled departure time a bit that morning. According to the Director of Charter, Sales, and Marketing, Conry did not seem overly stressed, just "concerned to do a good job."

⁵⁵ See the Air Traffic Control Group Chairman's Factual Report for a transcript of this conversation.

⁵⁶ See interview summary for Pamela Nolan, in Attachment 1.

⁵⁷ See interview summary for Kris Wiegand, in Attachment 1.

At 0845, Conry placed a 31 second call from his cell phone to the residence of an Aviation Charter copilot. Mrs. Conry indicated that Conry and the copilot were close, and that they discussed flying matters regularly. When contacted by investigators, the copilot said she was flying a trip that morning, and did not recall receiving a message from Conry.⁵⁸ The copilot's husband, who was out of town that day, told her he did not recall hearing a message from Conry either. This was Conry's last cell phone call.

The copilot said that if Conry had, in fact, called her house before the flight, that would lead her to believe Conry was concerned about the flight. She stated that she and Conry would sometimes call each other if they had concerns, and talk things over.

The Million Air FBO manager stated that Conry usually arrived before the Senator and his staff, but this time when Conry arrived, the passengers were already waiting in the lobby. The FBO manager stated that there was nothing unusual in Conry's manner, dress, or actions the morning of the accident. However, she could tell Conry was "busy or preoccupied" before the flight, because his passengers were waiting.⁵⁹

The FBO manager recalled Conry speaking with the Senator's assistant about the weather when he first entered the building. She stated that the Senator's assistant always arrived before the Senator to make sure the weather was okay. She did not overhear any details of that conversation. After speaking with the Senator's assistant, Conry went upstairs to a flight planning room.

A corporate pilot who had departed Duluth Minnesota (DLH) in a King Air 350 and arrived at the Million Air FBO about 0900, said Conry approached him as he was disembarking his airplane on the ramp at STP. The two men were acquaintances. Conry asked, "How was it up there?" The corporate pilot, who had also landed at Hibbing (HIB) prior to DLH, told Conry the visibility was at minimums. He also told the Conry there was icing at 5,000 feet and cloud tops were at 10,000 feet. Conry asked if he had encountered much icing. The corporate pilot said, "not much coming into here, but we did in Hibbing." The corporate pilot told investigators he thought it was unusual that Conry began asking about the weather before the corporate pilot had even finished getting off the airplane.⁶⁰

A line service technician at the Million Air FBO was out on the ramp with the corporate pilot when the two were speaking. He recalled that Conry's tie was untied when he approached the corporate pilot. The line service technician saw Conry tie his tie while he was talking to the corporate pilot. After his conversation with the corporate pilot, Conry asked the line service technician to pull the plane out of the hangar. Then, Conry went inside the FBO. The line service technician noted that Conry's passengers

⁵⁸ Personal communication with Theresa Jacobsen, December 19, 2002.

⁵⁹ See interview summary for Tricia Kenworthy, in Attachment 1 of the Operational Factors Group Chairman's Factual Report.

⁶⁰ See interview summary for Dexter Clarke, contained in Attachment 1.

were waiting.⁶¹

After he asked the line service technician to have the plane pulled out of the hangar, Conry approached the corporate pilot again inside the FBO office. He politely asked if the corporate pilot would mind having a few words with the Senator. Conry said the Senator was worried about the weather. The corporate pilot agreed, and accompanied Conry to the lobby, where he met the Senator and the other passengers. The corporate pilot told the Senator that the weather was at minimums, but he was sure that the pilots could handle the flight, and that there were other options.

According to the corporate pilot, Conry was standing nearby with the weather information in his hands during this conversation. He did not appear overworked, sleepy, stressed, or nervous. He just appeared to want the Senator to have some reassurance from someone who had just come from the area of their intended destination. It seemed like a normal departure interaction.

The Senator's response to the weather information was "minor." He did not appear as nervous as the corporate pilot would have expected him to be, given his reputation as a nervous flier. After the conversation with the corporate pilot, the entire entourage left together. Five or six minutes later, the corporate pilot saw the door of the accident airplane close, and noticed the right engine start.

ATC recordings indicate that the flight departed STP about 0930.

1.5.2. The First Officer

The F/O, Michael L. Guess, age 30, was single, with no children. Guess's fiancée and mother both said he lived with them.⁶²

Captains who flew with Guess described him as friendly, happy, organized, motivated, eager to learn, and unassertive. Several pilots who had flown with Guess at Aviation Charter expressed concerns about Guess's flying skills, especially his ability to land the airplane without assistance. Instructors who had provided Guess with ground instruction for Aviation Charter and previous employers expressed concerns about Guess's ability to learn aircraft systems, and characterized his performance in ground school as below average.⁶³

According to Guess's fiancée and mother, Guess had experienced no significant changes in his personal life in the twelve months before the accident. His fiancée added that he was from a very stable, supportive family. Her relationship with Guess was going "great" and she and Guess parted on good terms the day of the accident.

⁶¹ See interview summary for Alfred Dumbuya, contained in Attachment 1 of the Operational Factors Group Chairman's Factual Report.

⁶² See interview summaries for Jan Nelson and Lucy Guess, in Attachment 1.

⁶³ For additional details in these areas, see interview summaries for Joseph Diedrich and Richard Vosika in Attachment 1. See also the Operational Factors Group Chairman's Factual Report, and the interview summary for Oliver Koski in Attachment 1 of the Operational Factors Group Chairman's Factual Report.

In September 2002, Guess lost his job as a training scheduler at Pan Am International Flight Academy because of a company-wide reduction in personnel and operations. Guess drove a truck for FedEx for a short time after he was laid off from Pan Am. However, he did not want that to interfere with his availability for flying, so he stopped working there. His fiancée said that he had not worked for FedEx for “weeks” before the accident.

Although losing his job at Pan Am had eliminated Guess’s primary source of income, his mother and fiancée provided him with financial support to assist him in his efforts to build a flying career. Guess’s fiancée said Guess was always able to pay his bills on time, and did not experience much stress related to his finances. Guess had purchased a new sports car in the twelve months before the accident.

Guess’s typical schedule consisted of spending time at home, running errands, and working occasional flights from Aviation Charter. He would call Aviation Charter regularly and tell them he was available to fly. Guess also looked for flying jobs on the internet, and frequently updated his resume with potential employers. He was seeking a job with a regional airline.

A search of records at the National Driver Registry found no history of driver’s license revocation or suspension for Guess.

1.5.2.1. First Officer’s Flying Background

Guess became interested in flying at a very young age, according to his family. In July 1990, he participated in a flight training program for high school students sponsored by the Tuskegee Airman organization. He received 10 hours of flight instruction at an airfield near Tuskegee, Alabama.

Guess went on to attend the University of North Dakota (UND) at Grand Forks, majoring in aeronautical studies. He began flight training at UND in January 1992, and finished his airplane single- and multi-engine land, instrument airplane commercial pilot certificate in May 1997, with 262 hours of flight experience. He also received his bachelor’s degree in May 1997.

After college, Guess returned to the Minneapolis-St. Paul area, where he worked a few different flying and non-flying jobs before gaining employment with Aviation Charter.⁶⁴

1.5.2.2. First Officer’s Medical Background

⁶⁴ For details on Guess’s flying and professional activities after 1997, see the Operational Factors Group Chairman’s Factual Report.

Guess's fiancée said he was in great health. He had experienced no significant health changes in the twelve months before the accident. He displayed no signs of illness the day of the accident. Guess's hearing and vision were "perfect." He did not take prescription medication, drink alcohol, or use tobacco products.

Guess's most recent FAA medical certificate was a first class medical certificate, dated August 2, 2002, containing no restrictions.

1.5.2.3. First Officer's 72-Hour History

Tuesday morning, October 22, 2002, Guess's fiancée said Guess would have awakened about 0700 because he had a flight that morning. Guess was scheduled to fly to Kenora Airport (CYQK), in Ontario, Canada for Aviation Charter. The Captain had flown with Guess on two prior occasions.⁶⁵

The captain greeted Guess some time after 0745 as Guess was preparing for the flight. Guess was in a good mood, looked healthy, and seemed rested, energetic, and excited about the trip. The captain said he chose to fly the first leg and have Guess work the radios because they had passengers on board and he had not flown with Guess for a while.

The captain told Guess he would let him fly the empty legs on the way back. The flight departed at FCM at 0912. The captain described it as a routine flight up to CYQK, where they made a visual approach. In his logbook, Guess wrote the following comments about the first leg of the trip: "Departed FCM for CYQK with pax. Prior to departure, things were in a disarray, but we got it together. Excited to fly into Canada. FAR Part 135 SIC Aviation Charter."⁶⁶

The crew departed CQYK at 1121. Guess flew the airplane to Baudette International Airport (BDE), Baudette, Minnesota, to clear U.S. Customs, while the captain worked the radios. Guess made a visual approach, and the crew arrived BDE at 1148. Guess logged one-tenth of an hour of instrument time, and noted, "After dropping off the pax, we departed CYQK for BDE in order to clear customs. They were very thorough. Great time for PIC time. FAR Part 91 PIC Aviation Charter." The crew departed BDE at 1212. Guess continued as the pilot flying for the final leg to FCM, logging one-tenth of an hour of instrument time, and making another visual approach. The flight arrived at FCM at 1330. In his log book, Guess noted, "Departed BDE for FCM. An excellent opportunity to get PIC time. My landing was good. Overall, this was a good flight." The captain stated that there was nothing unusual about Guess's approaches and landings during the flight.

Guess's fiancée saw him that evening at her apartment, some time after 1800. The two had dinner, relaxed around the house, and went to bed early. She

⁶⁵ See interview summary for Thomas Krey, contained in Attachment 1 of the Operational Factors Group Chairman's Factual Report.

⁶⁶ See Attachment 27.

thought Guess slept from about 2200 on Tuesday, October 22, 2002, until about 0800 on Wednesday, October 23, 2002. She said Guess engaged in routine activities around the apartment, running errands, and looking for aviation jobs on the internet during the day. Guess's mother recalled a routine telephone conversation with Guess in the early morning while he was still at the apartment. Guess and his fiancée had dinner and engaged in routine activities around the house that evening. She said Guess slept from about 2200 on Wednesday, October 23, 2002, until about 0800 on Thursday, October 24, 2002.

According to Guess's fiancée, Guess engaged in routine activities around the apartment and ran errands again on Thursday, October 24, 2002. Guess went to his mother's house about 1800, stayed about an hour, and had routine conversation with his mother about flying, jobs, and the slow economy. Guess was at the apartment with his fiancée later that evening. He received a call from Aviation Charter on his cell phone between 2000 and 2100, notifying him of his assignment on the trip to Eveleth. Guess accepted the trip. When he got off the phone, Guess told his fiancée he was glad he did not have to leave right away. He knew he would be flying Senator Wellstone in the morning, and he was excited about the trip. Guess mentioned that he would pick up donuts in the morning. Next, Guess spoke with his mother on the phone and they had routine conversation. She told him he should get some rest, and Guess went to sleep by 2200.

His fiancée said Guess awoke with his alarm clock between 0630 and 0645 and took a shower. She got up around 0815 and sat with him for a while. Guess told her that Conry had called about 0810 and told him the trip was canceled. Guess told her he was excited because this meant he would be able to pick up his new car from an auto repair shop where he was having some work done on it. His fiancée stated that Conry called back 20 minutes later saying that the trip was on.⁶⁷ Guess and his fiancée talked for a little while longer, and then Guess left for the airport.

When asked if Guess was worried about making it to the airport on time for the flight, his fiancée said, "He wasn't worried about getting there on time because it was extended a little bit – they postponed the time a little bit." When asked how long it would take Guess to drive from their residence to the St. Paul downtown airport, Nelson said it would have taken 7 to 10 minutes, at most.

The Million Air FBO manager recalled Guess's arrival on the morning of October 25, 2002. Guess arrived with a box of breakfast rolls from a local bakery. He said good morning, asked her to make sure the airplane was fueled, and then went to prepare drinks for the flight. Shortly thereafter, Guess spilled a cooler of ice in the drink preparation area, and jokingly remarked that it was "not going to be his day." Guess said he was excited to be flying the Senator and would try to make it a smooth flight for him. The FBO manager stated that after cleaning up the spilled ice, Guess then went outside with a line service technician to preflight the airplane. The corporate pilot who

⁶⁷ Conry's residential and cell phone records showed one call placed to Guess's cell phone at 0803. The records did not show a second call to any phone numbers directly related to Guess.

had just flown in from Hibbing had a brief routine conversation with Guess inside the FBO later, some time after 0900.⁶⁸

1.5.3. Crew Familiarity

Aviation Charter told investigators that Conry and Guess had flown four trips together. Trip forms saved by Conry indicated that Conry had flown two trips with Guess since Conry's last King Air simulator training in August 2002. The first trip took place on September 9, 2002, in a King Air 100, the second took place on October 4, 2002, in a King Air 200.⁶⁹

Neither pilot recorded instrument time or instrument approaches during the September 9, 2002 trip. Guess did not log any landings for the first leg of the trip. In the remarks section of his logbook, he described the first leg as follows: "Departed STP for FFM with the Red Cross. I flew with Capt. Rich Conry, which is always a pleasure. Very gusty on the surface at FFM. FAR Part 135 SIC/ACI." Guess logged a night landing for the return leg of the trip, and wrote the following, "Departed FFM back to STP with Rich and the Red Cross. I made a very good stabilized approach to a smooth landing. FAR Part 135 SIC Aviation Charter."

Conry recorded one hour of actual instrument time and two instrument approaches for the trip on October 4, 2002. Guess reported 0.9 hours of instrument time and one ILS approach in his log book for the trip. Guess described the first leg of the trip as follows: "Departed STP for GRR with Captain. Rich Conry flew the approach down to minimums beautifully. FAR Part 135 SIC Aviation Charter." For the return leg, Guess logged 0.9 hours of actual instrument time and one ILS approach, writing, "I was given the opportunity to fly the return leg, so we departed GRR back to STP. While enroute I racked up some instrument time. I flew the ILS approach down to approx 50 feet above minimums. FAR Part 91 PIC Aviation Charter."

When asked if Conry ever spoke of flying with Guess, Mrs. Conry said her husband reported that other Aviation Charter pilots thought Guess was not a good pilot, but when Conry flew with Guess he was just fine. Guess came over to Conry's residence once to practice approaches with Conry's PC-based flight simulator.

When asked if Guess ever mentioned having concerns about flying with any particular captains at Aviation Charter or about flying for the company, Guess' fiancée said no, he was always excited to go flying.

1.5.4. Flight and Duty Time

Aviation Charter trip sheets, pilot's log books, and Aviation Charter Flight Crewmember Rest Flight Time Records indicated that the trip to Eveleth was the only

⁶⁸ See the interview summary for Dexter Clarke, in Attachment 1.

⁶⁹ See Attachment 28.

trip flown by either crew member in the 24 hours preceding the accident.⁷⁰ At 1022 on October 25, 2002, both crew members had been flying for nearly an hour and had been on duty for about two hours.

1.13. Medical and Pathological Information

Tissue and fluid specimens from both pilots were forwarded to the FAA's Civil Aeromedical Institute for toxicological testing. The captain's specimens tested negative for carbon monoxide, cyanide, ethanol, and 12 different types of legal and illegal drugs.⁷¹ Acetaminophen (139.7 ug/ml) was detected in the captain's urine. Specimens obtained from the first officer tested negative for carbon monoxide, ethanol, and 12 different types of legal and illegal drugs.⁷²

The St. Louis County Medical Examiner, who performed autopsies on both crew members, was unable to determine if Conry was wearing corrective lenses at the time of the crash.

⁷⁰ See Attachment 29.

⁷¹ Legal and illegal drugs screened for included amphetamine, opiates, marijuana, cocaine, phencyclidine, benzodiazapines, barbiturates, antidepressants, antihistamines, meprobamate, mathaqualone, and nicotine.

⁷² See Attachment 30.

LIST OF ATTACHMENTS	<u>Number of Pages</u>
ATTACHMENT 1 Interview Summaries	(50)
ATTACHMENT 2 Conry Resume and Cover Letter Given to Phoenix Air	(4)
ATTACHMENT 3 Conry Resume Given to Express One	(1)
ATTACHMENT 4 Conry Employment Application Submitted to Simmons Airlines	(5)
ATTACHMENT 5 Letter to Conry from Simmons Airlines, November 7, 1989	(1)
ATTACHMENT 6 Simmons Training Program Outline	(3)
ATTACHMENT 7 Excerpts from Conry's Log Book with Simmons Airlines	(2)
ATTACHMENT 8 Conry's Pre-IOE Forms from Simmons Airlines	(4)
ATTACHMENT 9 Conry's Resignation Letter Submitted to Simmons Airlines, April 20, 1990	(1)
ATTACHMENT 10 Conry's Aviation Charter Application for Employment, March 20, 2001	(2)
ATTACHMENT 11 Conry Flight Experience Forms Submitted March 20, 2001	(2)
ATTACHMENT 12 Conry's FAA Medical Waivers for Defective Distant Vision	(2)
ATTACHMENT 13 Medical Application and AME Letter to FAA, October 23, 1989	(8)
ATTACHMENT 14 FAA Letter to Conry, January 9, 1990	(1)
ATTACHMENT 15 Results of Conry Vision Exam, January 24, 1990	(2)

ATTACHMENT 16 Conry Medical Application Form, June 5, 1990	(2)
ATTACHMENT 17 Conry Medical Application Form, August 11, 1992	(2)
ATTACHMENT 18 Conry Medical Application Form, July 17, 1997	(2)
ATTACHMENT 19 FAA Letter to Conry, August 6, 1997	(1)
ATTACHMENT 20 Results of Conry Vision Exam, August 18, 1997	(2)
ATTACHMENT 21 FAA Letter to Conry, September 30, 1997	(2)
ATTACHMENT 22 Conry Medical Application Form, May 7, 1998	(2)
ATTACHMENT 23 Table of Contents for Conry's Civil Trial Court Docket	(15)
ATTACHMENT 24 Table of Contents for Conry's Criminal Trial Court Docket	(7)
ATTACHMENT 25 Conry Trip Form, October 24, 2002	(1)
ATTACHMENT 26 Conry Phone Records, October 24-25, 2002 (Official Use Only)	(3)
ATTACHMENT 27 Guess Log Entries from October 22, 2002	(2)
ATTACHMENT 28 Guess's Log Entries from trips with Conry on 9/7/02, 10/4/02	(6)
ATTACHMENT 29 Conry & Guess Trip Forms for 72 Hours Before the Accident	(4)
ATTACHMENT 30 Post-Accident Toxicological Test Results for Conry and Guess	(2)